

PROBATE COURT CHECK-IN 2019

By: Judge Linda D. Hurst
Judge Tana L. Coates
Michele L. Rowe, Court Attorney

HANDOUT 1

ATTENTION: Please see the bottom of the Probate Notes regarding contact with the Probate Research Department.

**Probate Calendar for xxxx, xxxx, 2019
9:00 a.m. in Department x, with Judge xxxxx presiding**

The following matters are PRE-APPROVED and no appearance is necessary unless an objection is made:

The following matters remain SET FOR HEARING and you should appear:

The following matters are OFF CALENDAR OR CONTINUED:

Subject to the rules below, attorneys and parties to a case may now contact the Probate Research Department using the following email: probate@slo.courts.ca.gov.

The following rules apply to use of the forgoing email address. An email that does not comply with the requirements below may not be reviewed.

1. **Emails must be related only to a Probate Note (past or present).**
 - a. The following exceptions apply: (1) A party or attorney has specifically received an email from the Court on an issue requiring response; or (2) the Court directed an email be sent to the Probate Research Department (Examples: Solicited email from a bench officer or a Court Attorney or information ordered to be provided via email by bench officer in Court).
2. **Emails must contain:**
 - a. **Subject Line: Hearing Date, Time, Department, Case Number and Case Name (Example: 10/1/19, 9:00, D99, 18PR0000, Estate of John Smith).**
 - b. **First Line of Email Body: Case Number, Case Name, and Description of the pleading on the calendar.**
 - c. **Reason for Request.**
 - d. **No Attachments.**
3. **Further, email inquiries must conform to the following guidelines:**
 - a. Questions must be from an attorney or party on the case.
 - b. The Court's response after the initial reply is limited to one email message per calendar matter, per hearing.
 - c. The body of the email (Reason for Request under item 2.c.) is limited to (5) lines to each deficiency or issue.
 - d. Emails may only inquire into *clarifications* regarding the Probate Note. This includes clarifying language, code sections, court rules and policies related to the Probate Note. Disputes regarding requirements or issues raised in the Probate Note may not be made via email.
 - e. Emails advising the Court of possible oversights may be sent.
 - f. **Continuances may not be requested via the probate email address.**
4. **This email procedure is NOT to be utilized for:**

- a. Any requests for legal advice (including, but not limited to, how to clear the Probate Note), case management, and/or a recommendation for an attorney.
 - b. Confirmation of documents received by the Court. Please refer to the conformed copy of your filed document to confirm the Court's receipt. If you have not received a conformed copy of your document, please contact the Civil Clerk's Office.
 - c. Confirmation that documents have been reviewed.
5. Response Time. All correspondence will be addressed on a priority basis according to the hearing date. The Probate Research Department will make every effort to respond within two Court days of receipt of the email.

HANDOUT 2

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California Rules of Court

CRC 7.204. Duty to apply for order increasing bond

(a) Ex parte application for order

Immediately upon the occurrence of facts making it necessary or appropriate to increase the amount of the bond, the personal representative, or the guardian or conservator of the estate, must make an ex parte application for an order increasing the bond.

(Subd (a) amended effective January 1, 2003; previously amended effective January 1, 2002.)

(b) Attorney's duty

If the personal representative, or the guardian or conservator of the estate, has not already made application under (a), the attorney for the personal representative, or the attorney for the guardian or conservator of the estate, must make the ex parte application immediately upon becoming aware of the need to increase bond.

(Subd (b) amended effective January 1, 2003; previously amended effective January 1, 2002.)

(c) Amount

(1) The application by a personal representative under (a) or by the attorney for a personal representative under (b) must show the value of the estate's personal property and the probable annual gross income of the estate.

(2) The application by a guardian or conservator of the estate under (a) or by the attorney for a guardian or conservator of the estate under (b) must show the value of the estate's personal property, the probable annual gross income of all of the property of the estate, and the sum of the probable annual gross payments of the public benefits of the ward or conservatee identified in Probate Code section 2320(c)(3).

(3) If the personal representative has full Independent Administration of Estates Act (IAEA) authority or the guardian or conservator of the estate has authority to sell estate real property without court confirmation, the application must also show the amount of the equity in estate real property.

(Subd (c) amended effective January 1, 2003; previously amended effective January 1, 2002.)

Rule 7.204 amended effective January 1, 2002; adopted effective January 1, 2000.

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California Rules of Court

CHAPTER 11. INVENTORY AND APPRAISAL

CRC 7.501. Inventory and Appraisal to show sufficiency of bond

(a) Statement required

Every Inventory and Appraisal must contain one of the following statements:

- (1) "Bond is waived";
- (2) "Bond has been filed in the amount of \$ (specify amount) and is insufficient"; or
- (3) "Bond has been filed in the amount of \$ (specify amount) and is sufficient."

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2002.)

(b) Insufficient bond

If the bond is insufficient, the fiduciary (the personal representative, or the guardian or conservator of the estate), or the attorney for the fiduciary, must immediately make ex parte application as provided in rule 7.204 for an order increasing the amount of the bond.

(Subd (b) amended effective January 1, 2003; previously amended effective January 1, 2002.)

(c) Statement signed by attorney

The statement required by (a) must be signed by the attorney of record for each fiduciary who has an attorney of record and by each fiduciary who does not.

(Subd (c) amended effective January 1, 2003; previously amended effective January 1, 2002.)

Rule 7.501 amended effective January 1, 2007; adopted effective January 1, 2000; previously amended effective January 1, 2002, and January 1, 2003.

Chapter 12 amended effective January 1, 2008.

HANDOUT 3

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Probate Code

Prob C § 1511. (a) Except as provided in subdivisions (f) and (g), at least 15 days before the hearing on the petition for the appointment of a guardian, notice of the time and place of the hearing shall be given as provided in subdivisions (b), (c), (d), and (e) of this section. The notice shall be accompanied by a copy of the petition. The court shall not shorten the time for giving the notice of hearing under this section.

(b) Notice shall be served in the manner provided in Section 415.10 or 415.30 of the Code of Civil Procedure, or in any manner authorized by the court, on all of the following persons:

(1) The proposed ward if 12 years

of age or older.

(2) Any person having legal custody of the proposed ward, or serving as guardian of the estate of the proposed ward.

(3) The parents of the proposed ward.

(4) Any person nominated as a guardian for the proposed ward under Section 1500 or 1501.

(c) Notice shall be delivered pursuant to Section 1215 to the addresses stated in the petition, or in any manner authorized by the court, to all of the following:

(1) The spouse named in the petition.

(2) The relatives named in the petition, except that if the petition is for the

appointment of a guardian of the estate only the court may dispense with the giving of notice to any one or more or all of the relatives.

(3) The person having the care of the proposed ward if other than the person having legal custody of the proposed ward.

(d) If notice is required by Section 1461 or 1542 to be given to the Director of State Hospitals or the Director of Developmental Services or the Director of Social Services, notice shall be delivered pursuant to Section 1215 as required.

(e) If the petition states that the proposed ward is receiving or is entitled to receive benefits from the Veterans Administration, notice shall be delivered pursuant to Section 1215 to the office of the Veterans Administration referred

to in Section 1461.5.

(f) Unless the court orders otherwise, notice shall not be given to any of the following:

(1) The parents or other relatives of a proposed ward who has been relinquished to a licensed adoption agency.

(2) The parents of a proposed ward who has been judicially declared free from their custody and control.

(g) Notice need not be given to any person if the court so orders upon a determination of either of the following:

(1) The person cannot with reasonable diligence be given the notice.

(2) The giving of the notice

would be contrary to the interest of justice.

(h) Before the appointment of a guardian is made, proof shall be made to the court that each person entitled to notice under this section either:

(1) Has been given notice as required by this section.

(2) Has not been given notice as required by this section because the person cannot with reasonable diligence be given the notice or because the giving of notice to that person would be contrary to the interest of justice.

(i) If notice is required by Section 1460.2 to be given to an Indian custodian or tribe, notice shall be mailed as required. [Amended by Stats. 2017, Ch. 319, Sec. 30. (AB 976) Effective January 1, 2018]

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Probate Code

Prob C § 1822. (a) At least 15 days before the hearing on the petition for appointment of a conservator, notice of the time and place of the hearing shall be given as provided in this section. The notice shall be accompanied by a copy of the petition. The court shall not shorten the time for giving the notice of hearing under this section.

(b) Notice shall be delivered pursuant to Section 1215 to the following persons:

(1) The spouse, if any, or registered domestic partner, if any, of the proposed conservatee at the address stated in the petition.

(2) The relatives named in the

petition at their addresses stated in the petition.

(c) If notice is required by Section 1461 to be given to the Director of State Hospitals or the Director of Developmental Services, notice shall be delivered pursuant to Section 1215 as required.

(d) If the petition states that the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration, notice shall be mailed to the Office of the Veterans Administration referred to in Section 1461.5.

(e) If the proposed conservatee is a person with developmental disabilities, at least 30 days before the day of the hearing on the petition, the petitioner shall deliver pursuant to Section 1215 a notice of the hearing and a copy of the

petition to the regional center identified in Section 1827.5.

(f) If the petition states that the petitioner and the proposed conservator have no prior relationship with the proposed conservatee and are not nominated by a family member, friend, or other person with a relationship to the proposed conservatee, notice shall be delivered pursuant to Section 1215 to the public guardian of the county in which the petition is filed. [Amended by Stats. 2017, Ch. 319, Sec. 34. (AB 976) Effective January 1, 2018]

HANDOUT 4

B. Procedure

§7.33 1. Petition for Letters of Special Administration

Petition for Probate (Judicial Council Form DE-111), reprinted in §7.49, must be used to obtain letters of special administration. In the caption of the form, the box for letters of special administration must be marked, as well as the box for general powers, if appropriate. The appropriate boxes for IAEA powers should also be marked.

The name of the proposed special administrator must be provided in item 2b and the appropriate boxes marked in item 2b(4).

The grounds for appointment and whether limited or general special powers or authority to perform a particular act are requested must be specified in Attachment 3g(3) to the petition. The allegations in §7.28 cover two of the more common situations requiring appointment of a special administrator. If other grounds exist, they should be alleged in a similar manner. Appointment of the special administrator may be made for a defined term or to perform a defined list of functions. See Prob C §8540.

If the special administrator requests to *perform* a particular act in the petition for appointment, he or she may also request *approval* of that act on the same notice and at the same time as the appointment. Prob C §8541(c).

7/1/2019

HANDOUT 5

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Probate Code

PART 3. INVENTORY AND APPRAISAL [8800. - 8980.]

CHAPTER 1. General Provisions [8800. - 8804.]

Prob C § 8800. (a) The personal representative shall file with the court clerk an inventory of property to be administered in the decedent's estate together with an appraisal of property in the inventory. An inventory and appraisal shall be combined in a single document.

(b) The inventory and appraisal shall be filed within four months after letters are first issued to a general personal representative. The court may allow such further time for filing an inventory and appraisal as is reasonable under the circumstances of the particular case.

(c) The personal representative may file partial inventories and appraisals where appropriate under the circumstances of the particular case, but all inventories and appraisals shall be filed before expiration of the time allowed under subdivision (b).

(d) Concurrent with the filing of the inventory and appraisal pursuant to this section, the personal representative shall also file a certification that the requirements of Section 480 of the Revenue and Taxation Code either:

(1) Are not applicable because the decedent owned no real property in California at the time of death.

(2) Have been satisfied by the filing of a change in ownership statement with the county recorder or assessor of each county in California in which the decedent owned property at the time of death.

[Amended by Stats. 1992, Ch. 1180, Sec. 1. Effective January 1, 1993]

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Probate Code

PART 11. CLOSING ESTATE ADMINISTRATION [12200. - 12252.]

CHAPTER 1. Time for Closing Estate [12200. - 12206.]

Prob C § 12200. The personal representative shall either petition for an order for final distribution of the estate or make a report of status of administration not later than the following times:

(a) In an estate for which a federal estate tax return is not required, within one year after the date of issuance of letters.

(b) In an estate for which a federal estate tax return is required, within 18 months after the date of issuance of letters. [Enacted by Stats. 1990, Ch. 79]